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## ADMINISTRATIVE RULES AND REGULATIONS

### WATER RIGHTS PURCHASE PROGRAM

**K.A.R. 11-10-1. Definitions.** (a) "Program" means water rights purchase program.

(b) "Commission" means the state conservation commission.

(c) "Director" means the executive director of the state conservation commission.

(d) "Local entity" means a local subdivision of state government.

(e) "Eligible water right" shall mean all of the following:

(1) A water right that has been certified as being in an area in need of aquifer restoration or stream recovery pursuant to K.S.A. 2-1919, and amendments thereto, and located in a priority area identified for water right purchase;

(2) a water right that, when placed in the custodial care of the state, yields a positive impact on the aquifer or stream targeted for restoration or recovery; and

(3) a water right meeting the criteria established in K.S.A. 2-1915, and amendments thereto.

(f) "Active water right" means a water right for which water has been lawfully applied to the authorized beneficial use. This water right shall have been used within a specified time period during the calendar years 1996 through 2000 or any succeeding consecutive five-year time period. Active water rights that have been placed in the water rights conservation program in accordance with K.A.R. 5-7-4 or active water rights appurtenant to land placed in the conservation reserve program in accordance with K.A.R. 5-7-4a shall also be considered to be active water rights while in the program.

(g) "Partial water right" means a portion of a water right that has been split up by a division agreement by the owner. The total quantity of the divided water rights shall not be greater than 70 percent of the original appropriated quantity that was divided. (Authorized by and implementing K.S.A. 2-1915, K.S.A. 2-1919; effective Aug. 23, 2002.)

**K.A.R. 11-10-2. Application.** (a) A local entity may apply for assistance to purchase water rights by submitting the form prescribed by the commission.

(b) Applications shall be submitted to the commission by July 1 to be considered for the next state fiscal year's budget cycle. (Authorized by and implementing K.S.A. 2-1915, K.S.A. 2-1919; effective Aug. 23, 2002.)

**K.A.R. 11-10-3. Priority areas.** Applications shall address only priority areas identified for the program by the Kansas water plan or Kansas water authority. (Authorized by and implementing K.S.A. 2-1915, K.S.A. 2-1919; effective Aug. 23, 2002.)

**K.A.R. 11-10-4. Procedures.** (a) Each local entity shall designate a period in which to accept offers from eligible water right holders.

(b) The minimum period to accept offers shall be two weeks.

(c) The local entity shall notify all water right holders located in the priority area of the local entity's intent to purchase water rights and of the procedures to be followed in making an offer.

(d) This notification of intent to purchase water rights shall be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties encompassing the priority area. Both publications shall occur prior to the close of the offer acceptance period.

(e) Each water right holder wanting to make an offer shall submit the offer to the local entity in a sealed envelope, which shall be opened by the local entity at the close of the offer acceptance period.

(f) The local entity shall determine the water right or rights that the entity wishes to purchase by ranking each water right according to at least one of the following:

(1) The water right having the most beneficial impact on stream recovery or aquifer restoration within the identified priority area; or

(2) the lowest offer per acre-foot of water contained on the water right.

(g) The local entity shall submit, for commission review, the water right or rights proposed for purchase on forms provided by the commission.

(h) Upon favorable review by the commission, the local entity shall submit to the commission the water right or rights selected for purchase on forms prescribed by the commission.

(i) The local entity or the commission shall have the right to reject any water right purchase offer. (Authorized by and implementing K.S.A. 2-1915, as amended by L. 2002, ch. 37, sec. 3, and K.S.A. 2-1919; effective Aug. 23, 2002.)

**K.A.R. 11-10-5. Payment.** (a) After the water right holder agrees to the purchase terms established by the local entity and the commission, payment shall be made by the commission to the local entity for the purchase of the eligible water rights.

(b) The terms of the water right purchase shall be identified on forms provided by the commission.

(c) The maximum amount paid by the commission for a water right authorized for irrigation shall be calculated as follows:

(1) The average per-acre difference between irrigated cropland and dryland cropland values shall be determined by the director for the county in which the water right is located, for the three years preceding the year in which the water right is to be purchased. This determination shall be made based on information available from the Kansas department of revenue, Kansas agricultural statistics, county appraisers, and any other sources of data that the director considers appropriate.

(2) The value determined in paragraph (c) (1) above shall be divided by the appropriate county value contained in K.A.R. 5-3-24.

(3) The value determined in paragraph (c) (2) above shall be multiplied by the authorized acre-foot quantity.

(4) The value determined in paragraph (c) (3) above shall be multiplied by 80 percent.

(d) The maximum payment for water rights authorized for beneficial uses other than irrigation shall be determined by the director. (Authorized by and implementing K.S.A. 2-1915, as amended by L. 2002, ch. 37, sec. 3, and K.S.A. 2-1919; effective Aug. 23, 2002.)

**K.A.R. 11-10-6. Petition for reconsideration.** (a) A water right holder or local entity may appeal any decision of the commission by filing a petition for reconsideration.

(b) The petition for reconsideration shall be submitted in writing to the commission within 30 days of the decision and shall state why the decision of the commission should be reviewed and why the decision should be modified or reversed.

(c) The petition for reconsideration shall be reviewed by the commission during the next scheduled commission meeting. Whether the decision should be affirmed, modified, or reversed shall be determined by the commission. The final decision shall state the reason or reasons for this determination. (Authorized by and implementing K.S.A. 2-1915, as amended by L. 2002, ch. 37, sec. 3, and K.S.A. 2-1919; effective Aug. 23, 2002.)